

UNITED STATES DISTRICT COURT 4/30/2024 12:04 pm
EASTERN DISTRICT OF NEW YORK U.S. DISTRICT COURT

EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

-----X Docket#
: 18-cr-00578-JS-1
UNITED STATES OF AMERICA, :
: :
- versus - : U.S. Courthouse
: Central Islip, New York
PATRICE RUNNER, :
: May 17, 2023
Defendant : 1:33 p.m.
-----X

TRANSCRIPT OF CRIMINAL CAUSE FOR BAIL HEARING
BEFORE THE HONORABLE ANNE Y. SHIELDS
UNITED STATES MAGISTRATE JUDGE

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1 THE CLERK: Calling 18-0578, United States of
2 America v. Patrice Runner. Please state your appearances
3 for the record.

4 MR. BURKE: Good afternoon, your Honor. Josh
5 Burke for the United States.

6 THE COURT: Good afternoon.

7 MR. BURKE: And with me are my --

8 THE COURT: And with you?

9 MR. BURKE: With me are co-counsel, Charles
10 Dunn, and Postal Inspector Hope Cerda.

11 THE COURT: Good afternoon.

12 MR. MILLIOEN: Good afternoon, your Honor.
13 Charles Millioen with Federal Defenders of New York, and
14 I'm here on behalf of Patrice Runner, who's seated to my
15 right in custody. And also at counsel table is
16 co-counsel James Darrow, also with my office.

17 THE COURT: Good afternoon.

18 So you don't see a court reporter here. We
19 don't have one. But I assure you, everything is
20 recorded. So, for that reason, I'm just going to make
21 sure everybody speak to the mic. I'll have you speak at
22 your seats. Don't feel that you have to get up. We just
23 have to make sure that we get everything.

24 So this is a bail hearing that I'm handling for
25 Judge Seybert. Before we get into that, I'm also

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1 handling the jury selection in this case, and that's
2 going to be -- that's set for May 30th. That's going
3 forward. But as long as I have you here, I want to go
4 through some housekeeping for that.

5 I would like some proposed voir dire. I'd like
6 that by the 23rd. I know you've got other pretrial
7 submissions for Judge Seybert. So include this. I need
8 proposed voir dire. I'd also like you to speak to each
9 other and collaborate and come up with a statement, just
10 a short one paragraph at most, explanation of the case
11 that I can read to the jurors. I'm sure you'll be able
12 to agree on something.

13 And also, one final list of names or entities
14 that I can read to the jurors. It's not necessarily
15 witnesses, but it will be, you know, any names or
16 anything that might come up. I will tell you, don't be
17 overly broad. Like, for example, if there's a bank
18 involved, you don't have to say, you know, the name of
19 the bank. I just recently did a case where you say a
20 name of the bank, of course, everyone's heard of the
21 bank.

22 So I'll go over a jury selection with you.
23 We'll find out what everyone does for a living. But as
24 far as, you know, that list that you'll get together,
25 names, places, anything that might come up at selection.

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1 So I just wanted to do that before I forgot before we got
2 to this hearing.

3 All right. So this is a bail hearing. It's my
4 understanding that the defendant is seeking to be
5 released prior to trial. There is currently an order of
6 detention that was entered in this case. I believe it
7 was Judge Locke at the time who issued the initial denial
8 of any bond.

9 He had found by a preponderance of the evidence
10 that there were no conditions or combination of
11 conditions that would assure the defendant's presence.
12 He mentioned the lack of suretors, the lack of community
13 ties, ties to -- ties outside of this country, and also
14 that there wasn't a bail package offered at that time.

15 So now this is -- and I'll ask the defense to
16 comment for me as to the grounds for this, the current
17 motion, and particularly their standards for a release to
18 prepare for trial, and there's also if there's new
19 information, to seek bail. So let me hear from defense
20 first and tell me what you want me to consider.

21 MR. MILLIOEN: Yes, your Honor. First off, I
22 think it's apparent that this is the first meaningful
23 bail hearing that Mr. Runner's had. And by meaningful, I
24 mean the defense actually having a bail package to
25 present to the judge. Obviously, I wasn't there at that

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1 appearance back in December of 2020, but I did look over
2 Randi Chavis's notes. She was the attorney who was
3 attorney of record from Federal Defenders of New York.
4 She was present at that hearing.

5 Mr. Runner wasn't present. I believe there was
6 some sort of issue over a waiver of appearance, him
7 possibly appearing telephonically.

8 THE COURT: Was there an extradition, or was
9 this during COVID, or what?

10 MR. MILLIOEN: So this was after he'd been
11 extradited to the United States.

12 THE COURT: Okay.

13 MR. MILLIOEN: So he had been in the United
14 States. He was in U.S. custody. He appeared for his
15 arraignment the day before on December 22nd, and then
16 this detention hearing was set for the 23rd.

17 THE COURT: Okay.

18 MR. MILLIOEN: Ms. Chavis wasn't able to put
19 any kind of bail package together at that point in time.
20 There was -- I don't know why he wasn't present. There
21 was some talk, or at least some note by Ms. Chavis about
22 some sort of waiver of presence, but he wasn't present.
23 Perhaps COVID factored into that, I don't know.

24 But according to Ms. Chavis's notes, though,
25 Judge Locke did say and make it clear on the record that

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1 we can reapply whenever we do have a bail package to
2 present.

3 THE COURT: Right. That's usually the case.
4 So go ahead.

5 MR. MILLIOEN: Right. So -- I'm sorry. I just
6 note the government made a note that, you know, this
7 shouldn't even be reopened, but I did just want to
8 address that.

9 THE COURT: Well, I think when there's new
10 information -- I certainly have cases where there's no
11 package. And then if something new comes up that the
12 defendant didn't know about, or if something changes,
13 people come in, so --

14 MR. MILLIOEN: Sure. So, your Honor, we have a
15 bail package for the Court. Mr. Runner's son, Axel
16 Runner, and I mentioned this in my letter, he's present
17 here today. He's seated in the front row.

18 THE COURT: Okay.

19 MR. MILLIOEN: If you could just stand up.

20 And also, Dylan Runner, Mr. Runner's other son
21 is also present. Dylan's just present as a supporter,
22 but Axel is willing to sign a bond.

23 Now, I know that the suretor report mentioned
24 that Axel has \$25,000 in cash. He is able to post
25 \$10,000 of that amount, and then he's willing to sign for

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1 an additional amount, and we would request \$200,000. We
2 believe that would be enough moral suasion for Mr. Runner
3 to appear in court.

4 Now, Mr. Axel Runner needs the additional
5 amount of money that he has saved up to establish a
6 residence throughout the course of this trial, for
7 himself as well as for his dad, and that would be going
8 into our other conditions. So, besides the bond, secured
9 partially by cash, and the rest by Axel's signature, Axel
10 is prepared to act as a third-party custodian.

11 THE COURT: Does he have a residence here now?

12 MR. MILLIOEN: He does not right now. He has
13 been looking at Airbnbs. He's currently staying in a
14 hotel.

15 MR. MILLIOEN: Where does he live now?

16 MR. MILLIOEN: At, like, permanent residence?

17 THE COURT: Where does he live?

18 MR. MILLIOEN: Well, he's lived in Canada.

19 Right now, he's staying in a hotel here in Suffolk
20 County.

21 THE COURT: For this, for purposes of being
22 here?

23 MR. MILLIOEN: For purposes of being here.

24 THE COURT: Okay. And where is he a citizen
25 of?

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1 MR. MILLIOEN: Of Canada.

2 THE COURT: Okay. But he does not have a place
3 here right now?

4 MR. MILLIOEN: Not at this time.

5 THE COURT: Okay.

6 MR. MILLIOEN: And really, he has found, you
7 know, like, Airbnbs that he could get for a month at a
8 time throughout the course of trial. He has the money.
9 It's just really a matter of, you know, this Court's
10 decision. But he's ready, he's willing, prepared to
11 establish that residence here locally.

12 So, with that being said, we'd also request
13 electronic monitoring and home detention, restricting
14 travel to the Eastern District of New York.

15 THE COURT: But as far as a place for your
16 client to go, he would have to go live somewhere, and you
17 don't have any place right now for him to go to.

18 MR. MILLIOEN: At this point in time, he would
19 be able to stay in the hotel with Axel. And then, once
20 Axel is able to get a longer-term residence, then they
21 would be going there.

22 THE COURT: And what does Axel do for a living?

23 MR. MILLIOEN: Axel, he's the director of paid
24 media at a Delaware-based company, Agent Launch, LLC, and
25 he makes about \$125,000 a year.

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1 THE COURT: I'm sorry. Did I ask you already
2 if he was a citizen? I'm not sure.

3 MR. MILLIOEN: Yes, you did, your Honor.

4 THE COURT: And he's a citizen of?

5 MR. MILLIOEN: Canada.

6 THE COURT: Canada, sorry.

7 MR. MILLIOEN: And with his employment, he
8 could work remotely. And his employer has -- is aware of
9 this situation, is aware that he will need to work from
10 New York.

11 THE COURT: Does he work remotely now?

12 MR. MILLIOEN: Yes. And his employer
13 understands that he would have to actually move to New
14 York. And with regards to acting as a third-party
15 custodian, that his work schedule might be a little bit
16 in flux, even though it is remote.

17 THE COURT: What's his family situation? Does
18 he have a spouse? Does he have children? Where does he
19 live? And who does he live with now?

20 MR. MILLIOEN: Axel?

21 THE COURT: Yeah.

22 MR. MILLIOEN: If the Court wants to just
23 address Axel Runner, I'm sure he'd be willing to answer
24 these questions.

25 THE COURT: Sure. Why don't you -- you can

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1 stand at the podium and speak into the mic.

2 Okay. So I'll just have you state your name
3 and relationship to the defendant.

4 MR. A. RUNNER: My name is Axel Runner, and I'm
5 Patrice's son.

6 THE COURT: And how old are you?

7 MR. A. RUNNER: I'm 26 years old.

8 THE COURT: Do you have a spouse, a family?
9 And who do you live with in Canada?

10 MR. A. RUNNER: I do not have a spouse, and I
11 don't have a family. I live with my brother and a friend
12 of mine who's also a -- we're roommates essentially, the
13 three of us.

14 THE COURT: So you're roommates with your
15 brother who's also present in court today?

16 MR. A. RUNNER: Yes.

17 THE COURT: Okay. And tell me a little bit
18 about your -- what you do for a living, where you do it,
19 what the company does, where they're located.

20 MR. A. RUNNER: So I work, like Charlie
21 mentioned, as a director. So it's my job -- I manage a
22 team of people who manage Google and Facebook
23 advertisements online for real estate agents across North
24 America. Our team is fully remote because there's no
25 office, but we operate within the U.S. and Canadian

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1 markets.

2 THE COURT: What's your salary? How are you
3 paid?

4 MR. A. RUNNER: I get paid monthly about
5 125,000 -- 10,000 a month.

6 THE COURT: Are you a contract employer, or do
7 you have an annual salary? How's that work?

8 MR. A. RUNNER: Technically, I do work as a
9 contractor, but it's full-time. But I get a fixed
10 monthly base salary. And then, on top of that, I have a
11 percentage in equity in the company and a percentage of
12 profit share that gets paid out month over month.

13 THE COURT: And how long have you had this
14 employment?

15 MR. A. RUNNER: About a month and 10 -- sorry,
16 one year and 10 months, so just under two years.

17 THE COURT: Okay. And I'm sorry. What did you
18 make annually last year?

19 MR. BURKE: Last year in U.S. currency, I made
20 about 80, but it increases every month, so this year,
21 it's probably going to be about -- in the 125 to 150
22 range.

23 THE COURT: Okay. And you've known about your
24 father's incarceration for quite a while now, right?

25 MR. A. RUNNER: Yes.

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1 THE COURT: Were you here -- I mean, I'm asking
2 because I wasn't here at the arraignment and hearing.
3 Were you there?

4 MR. A. RUNNER: I was not.

5 THE COURT: Okay. And were you contacted or
6 have you been contacted by pretrial services and
7 interviewed?

8 MR. A. RUNNER: No.

9 THE COURT: Okay. Go ahead.

10 MR. MILLIOEN: I think he has been, your Honor.
11 A pretrial services surety report was written.

12 THE COURT: Can somebody hand that up to me?
13 Because it wasn't -- I know it was sent to me and I know
14 I have it. I just don't have it right now on the bench.

15 MR. MILLIOEN: Yes.

16 THE COURT: I'm sorry if I'm taking your only
17 copy.

18 MR. MILLIOEN: If I can show it to him --

19 MR. A. RUNNER: Oh, yes. Yes. That was about
20 two weeks ago.

21 THE COURT: About two weeks ago?

22 MR. A. RUNNER: Two, three weeks ago, yeah.

23 THE COURT: Okay. So you pay rent where you
24 live now?

25 MR. A. RUNNER: Yes, I pay rent in Canada.

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1 THE COURT: And where are you staying right
2 now?

3 MR. A. RUNNER: We're staying at the Marriott
4 Hotel. It's about a 10-minute walk from here.

5 THE COURT: Okay. Okay, thanks. You can be
6 seated.

7 MR. A. RUNNER: Thank you.

8 THE COURT: All right. Go on.

9 MR. MILLIOEN: Yes, your Honor. In terms of
10 other conditions, Mr. Runner would agree to stay away
11 from any airport, within one mile, stay-away order from
12 any airport, except to use highways to travel, if need
13 be, to a location other than an airport. Obviously
14 we're --

15 THE COURT: Does Mr. Runner have any family or
16 any ties to this country?

17 MR. MILLIOEN: At this point, no, your Honor.

18 THE COURT: Okay. And he's a citizen of where?

19 MR. MILLIOEN: He's a citizen of France and
20 Canada.

21 THE COURT: Okay.

22 MR. MILLIOEN: And we would also agree to all
23 other standard conditions.

24 THE COURT: Right.

25 MR. MILLIOEN: With a release.

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1 THE COURT: What about -- what else do you want
2 to be considered here? I know that -- as a matter of
3 fact, I saw something on the docket today, where Judge
4 Seybert granted certain particularized access to your
5 client.

6 MR. MILLIOEN: Yes, your Honor. The discovery
7 issue has been difficult, to say the least. Mr. Runner's
8 at MDC. He has been given two hard drives of discovery.
9 And by he, I mean, he has not been given them, but MDC
10 was given one hard drive, and they're keeping it on
11 another side of the facility. So not where he is, but
12 another side that he can't access. And his access is
13 contingent on the COs at MDC to allow him to get there.

14 THE COURT: What did -- did Judge Seybert
15 address that in her order today?

16 MR. MILLIOEN: Judge Seybert did address that,
17 in terms of, you know, ordering MDC to allow easier
18 access. But at the end of the day, there are a couple
19 things that are problematic for that: Number one, the
20 lockdowns. I mean, this recent lockdown trend at MDC,
21 it's making it so that the CO availability to even bring
22 him there, it's really contingent on that CO
23 availability.

24 And the lockdowns, coupled with the shortages
25 of staff members at MDC, are making that completely

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1 unpredictable, and that Mr. Runner does not know when
2 he'll be able to see discovery, and it's really not
3 within his control at all.

4 THE COURT: Right.

5 MR. MILLIOEN: Also, the discovery -- and I'm
6 sorry. The second hard drive has been received by the
7 facility, but it's not yet been made available to
8 Mr. Runner. So I have the two hard drives. One is on
9 the other side of the facility; one, we don't know where
10 it is.

11 THE COURT: How much are we talking about it?
12 When we say hard drive, explain to me what that means in
13 terms of amounts.

14 MR. MILLIOEN: You know, I could even let
15 Mr. Darrow comment on this, because quite frankly, I
16 stepped on the case not that long ago.

17 THE COURT: Okay.

18 MR. MILLIOEN: And from the discovery side -- I
19 know the voluminous nature of it.

20 THE COURT: No, that's fine. Let him talk if
21 he knows more about it.

22 MR. DARROW: Thank you, your Honor. And I
23 think the government would agree, this case involves
24 voluminous discovery and exhibits. We're talking about
25 millions of documents and terabytes of data.

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1 THE COURT: Okay.

2 MR. DARROW: Mr. Runner has been provided a
3 subset of that, a very small subset. Even that subset
4 is -- it's the biggest amount of discovery I've ever
5 dealt with since I've been at the Federal Defenders, by
6 orders of magnitude. So this case has been pending for a
7 long time, in large part, because of the amount of
8 discovery.

9 Now, the exhibits that the government has
10 noticed for trial -- and 3,500 is, of course, a much
11 smaller subset of that. But as your Honor knows, a
12 defense requires review of more than just that.
13 And so our review of the exhibits entails a review of
14 the larger discovery as well. And so we need Mr. Runner
15 focused on the discovery, not least of which is because
16 many of the documents are in French.

17 THE COURT: Where's your office?

18 MR. DARROW: I'm based in Brooklyn, your Honor,
19 near the MDC. So it's been me, mainly, coming down to
20 see Mr. Runner with regularity, which is why I know about
21 the difficulties in getting him the discovery. And it's
22 been mostly me dealing with MDC legal -- and I should
23 say, with the assistance of the government. I mean,
24 they've been very good about prodding the MDC when we
25 ask.

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1 The difficulty, your Honor, as counsel
2 mentioned, is two things that's, I think, outside the
3 judge's control: one of which is the lockdowns, which
4 are security issues that are based on staffing, that are
5 outside everyone's control except for the MDC. They're
6 going to do what they do. The fact of the matter, your
7 Honor, is the lockdowns have been frequent. They've been
8 every single weekend, starting on Friday, ending on
9 Monday. And they have extended through the week often in
10 the past months.

11 That is a time when Mr. Runner cannot view his
12 discovery. The staffing issues mean, as a practical
13 matter, that when he does everything he's supposed to do,
14 ask to be transferred over to the other unit so he can go
15 to the VR to look at his discovery, every single time he
16 has to explain the issue to the new CO on the unit, who
17 then asks Mr. Runner, my client, why don't they just
18 bring the hard drive over here? He doesn't know. It's a
19 good idea.

20 THE COURT: Do you have a place in your office
21 where you typically can go over discovery with clients?

22 MR. DARROW: Yes, of course, your Honor.

23 THE COURT: Okay.

24 MR. MILLIOEN: And also, Mr. Darrow's in
25 Brooklyn. In Central Islip, we actually do have an

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1 office that we've made with a computer that's not
2 connected to the internet that is just there for
3 discovery for our clients who are out of custody.

4 THE COURT: Okay.

5 MR. DARROW: It's essentially a SCIF, your
6 Honor.

7 THE COURT: Okay. I now know what that means.
8 Okay. I'm going to ask the government to comment on
9 this.

10 MR. BURKE: Thank you, your Honor. Between our
11 letter to the Court in response to the motion and our
12 original letter in December 2020, I think we've laid out
13 our position on Mr. Runner as a flight risk and that
14 there should not be a bond in this matter, your Honor.
15 But just briefly, nothing has changed. We don't object
16 to the holding of this hearing, obviously. Mr. Runner
17 has come forward with surety information, and that's
18 before the Court at this point.

19 We did point out there's no new facts about his
20 risk of flight. The fact that he didn't flee in Spain
21 was known to him when he appeared here in 2020, and
22 otherwise, all of our arguments from our detention letter
23 in 2020 remain valid and in force.

24 THE COURT: You know what, let me just go back
25 to defense. Is there anything -- issue you wanted to

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1 bring to my attention about your client's health?

2 MR. MILLIOEN: Yes, your Honor. I did want to
3 note that as well. He is still having urine in his
4 blood. Mr. Runner has made many, many requests to see
5 medical, and he was able to see a doctor about the urine
6 in his blood, but he was more or less told everything
7 seems to be fine, yet there's still urine in his blood.
8 The rest of his requests have gone unanswered.

9 He's still experiencing vertigo-like symptoms,
10 possibly related to anxiety. Chronic insomnia. He wakes
11 up in the middle of the night with migraines. Again, I'm
12 not a doctor, but I would imagine it's also related to
13 the anxiety that he's facing right now in MDC.

14 THE COURT: Did he get the COVID vaccine? It
15 says that he asked for it and he didn't receive it.

16 MR. MILLIOEN: He's still not received the
17 COVID vaccine.

18 THE COURT: Government look into that at all?

19 MR. BURKE: Your Honor, we can make -- we could
20 inquire at MDC. I don't know their policies or their
21 procedures on vaccinating inmates.

22 THE COURT: It was my understanding, if
23 somebody asked for it, they would get it. Maybe now
24 that's changed, I don't know. But this person's asking
25 for it.

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1 So let me ask you this, let me ask the defense
2 this. Has there ever been any request for a medical
3 order to be issued in this case?

4 MR. DARROW: Your Honor, I can speak to that.

5 THE COURT: Please.

6 MR. DARROW: I have put in at least one -- at
7 least one request to MDC legal -- two requests medically
8 to MDC legal on -- so one on the COVID issue, back when
9 COVID was still a national emergency -- it's sort of
10 passed into our wake -- and on the blood and the urine
11 issue, as soon as I was made aware of it.

12 And the problem, your Honor, and the reason --
13 the answer is no, I've not requested an order from the
14 judge. But the reason why is we keep getting told it's
15 going to happen. It will happen, you know, he's going to
16 be seen next week. And then Mr. Runner is told, oh yeah,
17 yeah, you're on the list.

18 THE COURT: That's even on the vaccine?

19 MR. DARROW: No, I'm speaking only to the
20 doctor issue.

21 THE COURT: Okay.

22 MR. DARROW: On the vaccine, it's really been
23 just radio silence.

24 THE COURT: Okay.

25 MR. DARROW: That's a more widespread issue,

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1 your Honor. I can just proffer that I have other clients
2 there who have had this issue when they've asked more
3 recently. I don't know why. But I think of greater
4 concern, I think these days, your Honor, is not so much
5 the COVID, but the fact that he's got blood in his urine.

6 THE COURT: I'm not a doctor either, so I'm
7 not -- I can't say whether that's --

8 MR. DARROW: Me neither. I just -- speaking as
9 a lay person --

10 THE COURT: -- something I can't see. He's
11 been seen for it, and he's been told, don't worry about
12 it? Or has he just not been seen for it?

13 MR. DARROW: He was, after a great effort, he
14 was finally seen by some sort of medical person at the
15 MDC, and he was told that everything was fine. That's
16 what we have.

17 THE COURT: Okay. All right. Anything else
18 that defense wants me to know that's either not in the
19 letter or that I haven't -- you haven't had the
20 opportunity to discuss?

21 MR. MILLIOEN: I don't know in terms of the
22 Court and concerns regarding flight and France,
23 specifically in regards to their extradition policy, but
24 I don't --

25 THE COURT: And from what I've read, it says

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1 that France does not extradite its own citizens?

2 MR. MILLIOEN: And quite frankly, I don't know
3 where the government's getting that. I mean, I'm
4 familiar with their extradition policy. Just like the
5 U.S., they're not obligated to extradite their citizens,
6 but they --

7 THE COURT: Yeah, I don't know. I don't know.

8 MR. MILLIOEN: In the treaty itself, they very
9 well will extradite their citizens. And in fact, if they
10 don't agree to extradite it -- extradite one of their
11 citizens, then the case is submitted to their own
12 authorities for prosecution.

13 THE COURT: Right. But it wouldn't be in two
14 weeks, right? Certainly not.

15 Anything the government wants to add?

16 MR. BURKE: Your Honor, I think the risk of
17 flight is possibly heightened two weeks out from trial.
18 As you're noting, we are very close to picking a jury and
19 starting a trial here. The government does not think
20 that Mr. Runner moving into a hotel with his son is
21 sufficient assurance that he'll appear, in terms of a
22 stable location for him to live at or addressing any of
23 the other risk of flight concerns that we've raised.

24 THE COURT: Okay. All right. Thank you all.
25 I'll have a decision on this pretty quickly, but just not

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1 right now from the bench. I want to think about it for a
2 bit.

3 Is there anything else that you wanted to say?

4 MR. MILLIOEN: Yes, your Honor. I'm very
5 sorry. There was one other thing.

6 THE COURT: That's okay.

7 MR. MILLIOEN: We spoke to a representative of
8 the marshals today regarding where Mr. Runner is going to
9 be throughout the course of this trial. And today we
10 were told that it's very well likely he's going to be in
11 MDC, which from the standpoint of our ability to consult
12 with Mr. Runner throughout the course of the trial,
13 weeknights are going to be, practically speaking, we're
14 not going to be able to consult with him.

15 The legal team will be staying in Central
16 Islip. If he's going back to Brooklyn, there's just no
17 way we're going to be back in Brooklyn. And even if we
18 were to get back in Brooklyn, attorneys typically have to
19 wait at least an hour.

20 THE COURT: Would you make a request that he be
21 housed -- and again, I cannot tell marshals what to do,
22 but would you make a request that he be housed in either
23 Nassau or Suffolk if possible?

24 MR. MILLIOEN: We can make the request. Again,
25 I don't -- and that's just sort of the unknown here, in

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1 that we can make the request, but are the marshals going
2 to do it? We don't know.

3 But at the same time, based on what we're
4 hearing today that it's looking like MDC, that's the most
5 recent word we've got on it.

6 THE COURT: Right, but that's every case that's
7 here. Every case that we try here, every criminal case,
8 are they all housed in MDC?

9 MR. MILLIOEN: Well, some are out here in
10 Suffolk. And I think, again, going to the issue of, you
11 know, this not being just a felon in possession of a
12 firearm, where regular communication with our clients can
13 be needed as trial's unfolding. I mean, the government's
14 turned over hundreds of exhibits. Based on what exhibits
15 they're entering each day, we're going to have to consult
16 with him about those exhibits on a day-to-day basis.

17 THE COURT: Right. How long is this trial
18 supposed to last?

19 MR. DARROW: Your Honor, the government has
20 said two calendar weeks, given the trial schedule for its
21 case, and then we'll have a case.

22 THE COURT: Okay. And that's not Fridays? I
23 don't know if Judge Seybert set some Fridays.

24 MR. DARROW: That's right, your Honor. I think
25 the government's case will take eight days, as they've

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1 estimated, and then we have a case after that. So three
2 calendar weeks at least.

3 THE COURT: I'm also asking that for purposes
4 of selection as well.

5 MR. DARROW: Of course.

6 THE COURT: Okay.

7 MR. MILLIOEN: And again, the lockdown schedule
8 has been particularly spiking on weekends at MDC, which
9 is also going to affect our ability to see him, and that
10 delays everything, even for legal visits.

11 For the legal visits at MDC, we are allowed to
12 bring in a laptop. We can't even bring in a laptop cord.
13 We can't bring a power cord. So, even for our visits
14 with him over the weekend and spending a significant
15 amount of time with him, MDC's policies are just not
16 conducive to allowing meaningful attorney consultation on
17 a case like this, with these sort of particular issues, a
18 20-year alleged span of activity that the government's
19 alleging.

20 And if the Court -- I did just really want to
21 say, the Court -- I'm sorry, the government did, in their
22 brief, cite a few cases addressing that, complexity of
23 the case, voluminous discovery, that's not enough under
24 3142(i) for a temporary release.

25 And I think what's interesting in looking at

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1 those cases, the difference in the posture of those
2 defendants than Mr. Runner, in the Dupree case, that
3 defendant was initially released on bond, and then he was
4 arrested after he committed new financial crimes. So he
5 brings this 3142(i) motion after having committed new
6 crimes while he was out, getting taken in, then he made
7 four unsuccessful bail applications before moving for
8 temporary release.

9 Their second case, Petters, P-E-T-T-E-R-S, that
10 defendant was initially ordered detained because he was
11 discussing fleeing the country with a cooperating
12 witness, specifically to countries that don't extradite.
13 He obtained false information, researched heavily,
14 discussed leaving also with the mother of his children,
15 and told the cooperating witness that he had previously
16 fled criminal charge in Colorado.

17 And the final case that they cited, Birbragher,
18 B-I-R-B-R-A-G-H-E-R, the Iowa District Court case, that
19 defendant admittedly participated in international arms
20 and drug trafficking ring; and the organization that he
21 was associated with, there were murders that were
22 attributable to that. So --

23 THE COURT: Every bail decision is different,
24 right? The standards might be the same. In this case, I
25 take it you're looking at it both as an application for

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1 bail, you know, based on change in circumstances from the
2 initial bail, and you're also asking for it to prepare
3 for trial.

4 MR. MILLIOEN: That's correct.

5 THE COURT: So it's on both.

6 MR. MILLIOEN: That's correct, your Honor. I
7 just wanted the court to sort of be aware of what really
8 the context of those defendants, and that Mr. Runner has
9 not had any of those types of egregious issues.

10 THE COURT: Let me ask the government, is there
11 any other facts with respect to Mr. Runner's -- other
12 than, you know, what we've already said here -- his
13 situation that makes this case different?

14 And also, would you agree in terms of how long
15 the trial would be? And do you know anything about
16 somebody who's housed during trial here at MDC, and the
17 ability to get them housed here, or anything like that?

18 MR. BURKE: Your Honor, on that last point, the
19 government does not have any control over -- we do not
20 have any control over where he's housed. We'd be happy
21 to join the request that he be moved out closer to this
22 court, or have it be an unopposed or joint request to the
23 marshals. And we'd be happy to do that.

24 In terms of the length of trial, that is our
25 estimate, that our case may run as long as two weeks,

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1 given Judge Seybert's schedule of trying the case four
2 days a week. And we don't know how long the defense case
3 would be, but I think three weeks, beginning June 5th, is
4 a good estimate.

5 THE COURT: And what about particular factual
6 circumstances of this defendant versus other cases?

7 MR. BURKE: Yes, your Honor. The cases we
8 cited were to lay out the standard --

9 THE COURT: Right.

10 MR. BURKE: -- under 3142(i), which is an
11 incredibly rarely-used provision to make a different bond
12 determination based on need to prepare for trial, or
13 other extraordinary circumstances.

14 We are primarily concerned about Mr. Runner's
15 serious risk of flight. He was extradited, he is a
16 citizen of two other countries, and we do think there's a
17 major concern that if he fled and made it to one of those
18 countries, it would be years, and maybe never, that we
19 would see him again to finish this prosecution.

20 The requested conditions of release are also a
21 major concern. He is -- again, I've said this once, and
22 you questioned his son about his residence in the U.S.,
23 and his plan for how to have a place for his father to
24 stay, and those kind of concerns.

25 Currently staying in a hotel, and then maybe

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1 staying in an Airbnb with a non-U.S. citizen is not a
2 normal condition of release or a surety that gives the
3 Court or the government assurance that Mr. Runner will
4 not flee.

5 So those are the facts of this case, and we
6 oppose both motions.

7 THE COURT: All right. Thank you.

8 Was there -- I noticed there was talk at the
9 defense table. Is there anything else that you wanted?

10 MR. MILLIOEN: If I could just have a moment,
11 just to talk to Mr. Darrow.

12 THE COURT: Sure.

13 (Counsel confer)

14 MR. MILLIOEN: Your Honor, just one other thing
15 as a condition of release, and I've talked to Mr. Runner
16 about this. If the Court does have any concern regarding
17 the extradition status in France, if that will weigh into
18 the Court's opinion -- I mean, without really knowing,
19 I'm not sure -- but Mr. Runner would be willing to
20 execute a written waiver of extradition from France into
21 the United States.

22 THE COURT: Yeah, and let me just correct
23 something. I know it might have been interpreted of my
24 saying, oh, since it's close to trial, there's a greater
25 tendency to flee. That's not what I meant. What I was

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1 saying is, when I would say it would be weeks, my
2 experience, the time in which it takes to extradite
3 someone is certainly not one week if it came to that. So
4 that is the only thing I meant to say there.

5 MR. MILLIOEN: And that's it, your Honor.
6 Thank you.

7 THE COURT: Okay. All right. Thank you, all.

8 MR. DARROW: Thank you, your Honor.

9 MR. BURKE: Thank you, your Honor.

10 (Matter concluded)

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C E R T I F I C A T E

I, MICHELLE COSTANTINO, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 30th day of April, 2024.

Michelle Costantino

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